

JPA File No.: 07-008 I
AG Contract No.: P001 2007 002091
Project No.: S 92 CH 328
Project: Traffic Signal, street lights &
drainage
Section: SR 92 @ Hereford Rd.
TRACS No.: H4596 01C
Budget Source Item No.: 12904

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
COCHISE COUNTY

THIS AGREEMENT is entered into this date October 29th 2007, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the COCHISE COUNTY, acting by and through its BOARD OF SUPERVISORS and CHAIRMAN (the "County"). The State and the County are collectively referred to as "Parties".

I. RECITALS



1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes § 11-251 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.

3. The State is in the process of roadway reconstruction, widening and overlay work within the County along a section of SR 92, beginning just north of Carr Canyon Road (MP 328.06) and extending south approximately four miles to just south of Hunter Canyon (MP 332.04). Incident to the State's project, the Parties agree a new traffic signal (MP 329.45), related street lights and flashing beacons should be installed on SR 92 at Hereford Road. Also incident to the State's project, the Parties agree a new detention basin (basin) with a drainage outlet will subsequently be abandoned to the County. The State will install the signal and all the various lights/beacons, maintain the signal, all lights/beacons, plus the culvert running into the basin. The County will be responsible for all electrical power for said Project, collectively hereinafter referred to as the "Project."

4. The Parties hereto agree to and acknowledge the following conditions **a)** the Parties shall perform their responsibilities consistent with this Agreement; and **b)** any change or modification to the Project will only occur with the mutual written consent of the Parties.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

NO. 29375
Filed with the Secretary of State
Date Filed: 10/29/07

Secretary of State
By: 

II. SCOPE OF WORK

1. The State shall:

- a. Upon execution of this Agreement, become the designated agent for the County.
- b. Prepare and provide design plans, specifications and other such documents and services required for the construction bidding and construction of the Project, and submit same to the County as appropriate.
- c. Advertise for bids and award one or more construction contract(s) for the Project. Administer contract(s) for the Project and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by the Project delays attributable to the State.
- d. Upon completion of the Project, perform the final inspection and notify the County in writing that the Project has been constructed in accordance with the project documents and the Project has been satisfactorily completed.
- e. Provide routine and emergency maintenance of the signal, intersection approach lighting, plus related intersection lighting and flashing beacon lighting within State right-of-way. Said flashing beacons are located at MP 329.34 and MP 329.56, whereas the intersection approach street lights are located at the following locations:
North Leg of SR 92: MP 329.30, MP 329.33, MP 329.36, MP 329.38 and MP 329.41.
South Leg of SR 92: MP 329.48, MP 329.52 and MP 329.54.
- f. Upon the approval by Resolution of the State Transportation Board, and as mutually agreed to by the State and County, abandon to the County, jurisdiction, ownership, and maintenance responsibilities of the right-of-way depicted on Exhibit "A," attached hereto and made a part hereof. Continue to maintain only the culvert which crosses SR 92.

2. The County shall:

- a. Upon execution of this Agreement, designate the State as the County's agent.
- b. Review the design documents required for construction of the Project, and provide comments to the State as appropriate.
- c. All costs attributable to any engineering change orders requested by the County shall be the sole responsibility of the County for payment. Be responsible for contractor claims for additional compensation caused by Project delays attributable to the County.
- d. Upon completion of the Project by the State, the County will be responsible for paying for the electrical power to operate the traffic signal and all Project lighting.
- e. Upon the approval by Resolution of the State Transportation Board, and as mutually agreed to by the State and County, waive the four-year advance notification requirements of Arizona Revised Statutes Section 28-7209 and accept ownership, jurisdiction, and maintenance responsibilities for the right-of-way depicted in Exhibit "A", excluding the cross culvert.
- f. Maintain all facilities in the returned right-of-way depicted in Exhibit "A," specifically the basin and drainage outlet. Maintenance shall include, but not be limited to: Checking the basin bottom for sediment deposition and removing any accumulated sediment, and making sure the basin outlet pipe is clear of sediment. Maintenance is to be performed prior to the summer monsoon season and after every large storm event.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements, provided however, any provisions herein for electrical power to operate the traffic signal provided by the County shall be perpetual. This Agreement may be cancelled at any time prior to the award of a Project construction contract, upon a thirty (30) calendar-day written notice to the other party. It is understood and agreed that, in the event the County fails to budget or provide for electrical power, as set forth in this Agreement, the State shall in no way be responsible to provide electrical power. The State shall own all signal and light facilities under this Agreement upon partial or complete termination.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

4. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

5. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

6. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, Arizona 85007
(602) 712-7525
(602) 712-7424 Fax

Cochise County
Attn: Highway/Flood Plain Director
1415 Melody Ln.
Bisbee, Arizona 85603
(520) 432-9300
(520) 432-9337 Fax


7. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

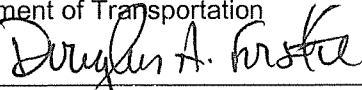
9. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

COCHISE COUNTY

By 
RICHARD SEARLE
Chairman, Board of Supervisors

STATE OF ARIZONA

Department of Transportation
By 
DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

ATTEST:

By 
KATIE HOWARD
Clerk of the Board

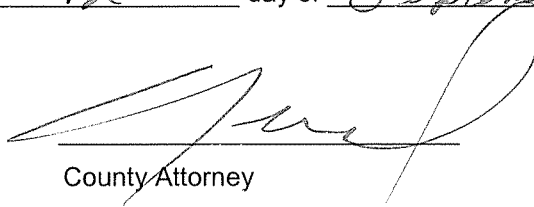
G:\07-008 Traffic Signal
Initial Draft 3/21/07 ghc
Revised draft 2 4/30/07ghc
Revised Draft 2 for basin language – 5/30/07 ghc
Revised Draft from County 7/26/07 ghc
Final from AG 8/9/07 ghc

ATTORNEY APPROVAL FORM FOR THE COCHISE COUNTY

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the COUNTY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

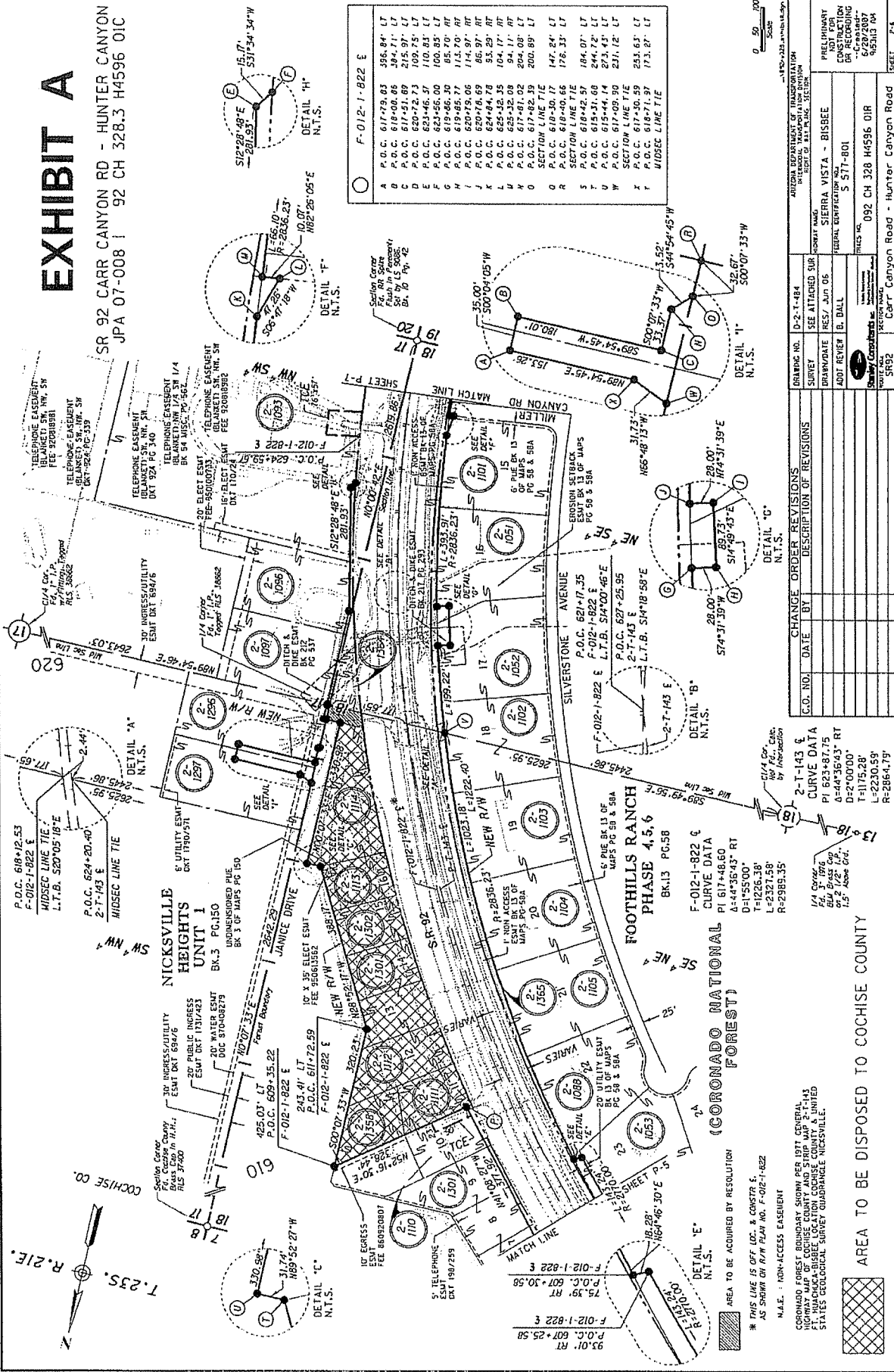
DATED this 12th day of September, 2007.




County Attorney

ATBEX

SR 92 CARR CANYON RD - HUNTER CANYON
JPA 07-008 | 92 CH 328.3 H4596 OIC



<p>TERRY GODDARD Attorney General</p>	<p> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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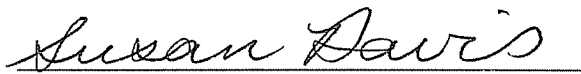
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. P0012007002091 (**JPA 07-008-I**), an Agreement between public agencies, i.e., The State of Arizona and Cochise County, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: October 22, 2007

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:80010
Attachment